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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,778	01/31/2006	Norbert Huffschnid	0119010-00140	7599

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EXAMINER

SMITH, CREIGHTON H

ART UNIT	PAPER NUMBER
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2614

MAIL DATE	DELIVERY MODE
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09/09/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/566,778	Applicant(s) HUFFSCHMID, NORBERT	
	Examiner Creighton H. Smith	Art Unit 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 15-17, 19-23 and 25-33 is/are rejected.
- 7) ☒ Claim(s) 18, 24 and 34 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 15-17, 19-21, 25-30, 32 are rejected under 35 U.S.C. 102(E) as being anticipated by Schuster et al, U.S. Pat. #6,577,622.

Reference is drawn to Figs. 10a & 10b and cols. 22, lines 14 et seq. and col. 23, lines 17 et seq. Fig. 10b is a message flow diagram relating to Fig. 10A where a conference call is being initiated by a user at PID (210) in a 1st data network that belongs to phone 208 to other participants in other networks that belong to phones 218 and 228. In col. 23 Schuster et al disclose that user a will send a request 834 to phone 208 requesting a conference call between users A, B, C. An SIP INVITE message is sent by phone 208 to server 710. In that SIP INVITE message sent by phone 208 is a call control extension "(H. Schulzrinne et al., draft-ietf-mmusic-sip-cc-01.txt, Internet Engineering Task Force)." This reads upon applicant's step of capturing data that characterizes a 1st subscriber (user @ PID 210). User A's request 834 to set up the conference call includes UserB at UserB_id and UserC at UserC_id. UserB_id and UserC_id may be SIP URLs. See lines 20-36 of col. 23. This reads upon applicant's step of capturing data of the 2nd subscriber. Applicant's step of receiving an offer is met by Schuster et al in step 838 of Fig. 10B and step 506 of Fig. 9B where it is disclosed in both steps that

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the SIP INVITE from to Users B & C contains the Session Description Protocol (SDP) "from UserA-id." Applicant's 2nd signaling connection from the server to the 2nd subscriber is shown at step 844 of Fig. 10B of using the SDP of UserA_id. Applicant's linking step of the various signaling connections are shown by 1st data channel (854), 2nd data channel (856), and 3rd data channel (858).

Concerning claim 16, since the server is initiating communications over the Internet, it has to be using a web application, or the communications will not take place. Examiner is not sure if applicant's use of "WEB" with capitalization is some special application program or not. Applicant has provided no definition of their capitalized term "WEB" is the spec., and when looking up that term in Newton's Telecom Dictionary, no definition is present. Therefore, examiner is free to interpret the term "WEB" in its broadest light. Regarding claim 21, the bearer channel is the signaling channel between any multiple communications devices, and Schuster et al have clearly shown signaling between the users in the form of SIP signaling. For claim 25, Schuster et al disclose the PSTN in col. 5, lines 25-30, and inherently those subscribers to PSTN service will be charged by their PSTN provider.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22, 23, 31, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lialiamou et al, U.S. Pat. App. Pub. #2006/0050711.

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Lialiamou et al disclose in PP.0032, 0033, & 0034 a charging policy for the charging of data. Access charges are charged on metering of data sessions which may be charged differently, and in P.0034 the subscriber is charged for services provided directly by 3rd parties, and also differentiating charges for the access bearer. To have provided Lialiamou et al teaching of the charging of data in Schuster et al communications system would have been obvious to a person having ordinary skill in the art because the skilled practitioner in this art will realize that some subscriber has to pay for these data charges for the call over the Internet and record must be kept in order to adequately access the billing charges. For claim 33, Schuster et al disclose that the PSTN may also be included in his network 106, col. 5, lines 25-30.

Claims 18, 24, 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contrary to applicant's assertion that examiner cannot make this action final, this action can be made final due to applicant's amendment cleaning up the 112 issues examiner set forth in the 1st Office action. When examiner looked for the language in the spec for a "third" connection, no such language appeared, thus necessitating examiner's 102 statement of "as understood are". When applicant amended the claims with "continuous" and pointed out in the spec where it could be found, examiner commenced a new search based on the amendment.

Any inquiry concerning this communication should be directed to Creighton H. Smith at telephone number 571/272-7546.

05 SEP '08

/Creighton H Smith/
Primary Examiner, Art Unit 2614